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Assembly California Legislature

JOHN LAIRD

ASSEMBLYMEMBER, TWENTY SEVENTH DISTRICT

COMMITTEES
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LABOR & EMPLOYMENT
NATURAL RESOURCES

RECEIVED

MAR 25 2008

MPWMD

March 25, 2008

Members of the Board
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

RE: DRAFT ORDER TO CAL-AM REGARDING THE CARMEL RIVER

Dear Members of the Board:

I am writing to respectfully request that the Board defer acting on the draft order regarding the Carmel River and Cal-Am Water until at least after the Public Utilities Commission (PUC) issues its draft Environmental Impact Report (EIR) later this year and the PUC's Division of Ratepayer Advocates completes its work on its "seawater intrusion barrier/no once-through-cooling" alternative. I also request that the Board, prior to taking any action, collaborate with the other state entities (including the Coastal Commission, the Department of Fish and Game, and the Air Resources Board) which have significant interests in the various solutions, in order to assist the PUC and the community find a cost-effective and environmentally appropriate solution.

This issue is especially complicated because the legislature put the responsibility for the process of developing a water source in the hands of the PUC, which is considering the next steps in developing a solution. Yet this order would punish the local Monterey Peninsula community for the slow speed at which the PUC has moved to conceive and design a new project—during a period of time when state priorities with regard to water development are changing. What follows outlines why I believe these two requests are necessary and appropriate.

Background

In 1995, the Board determined that Cal-Am was diverting more water from the Carmel River than Cal-Am was permitted under its water rights, with resulting adverse impacts on river flows, habitat and fisheries. The Board then ordered Cal-Am to determine how to end diversions in excess of its rights.

Cal-Am originally proposed a dam, which was subsequently rejected by the voters. In 1998, the Legislature designated the PUC to identify an alternative to the dam. The PUC

ultimately recommended a large desalination plant at Moss Landing, utilizing the "once-through" cooling conduits of the Moss Landing Powerplant. Desalinated water would be conveyed approximately 20 miles to the Monterey Peninsula.

Cal-Am was directed to prepare a preliminary environmental assessment for the desalination operation, which was provided to the PUC in 2005. Since that time the PUC has been working on the draft EIR, and they have indicated it will be released later this year.

A desalination plant at Moss Landing will require approval of the Coastal Commission, which in recent years has indicated that it may no longer support "once-through" cooling. The State Water Resources Control Board also appears to be considering moving toward a policy of ending "once-through" cooling. These positions, taken together with the PUC's project-level suggestion, indicate a policy conflict among state agencies with regard to this issue.

Through the passage of AB 32, the state has set a goal of reducing greenhouse emissions, with the ARB directed to develop a state plan. A Moss Landing desalination plant and the facilities to pump the water to Monterey will consume large amounts of energy and produce very significant amounts of greenhouse gases. As a result, the PUC proposal is somewhat in conflict with the direction given to the ARB with regard to AB 32.

And with regard to ocean health, the state has provided protections for the Monterey Bay Sanctuary with the purpose of protecting the fishery and other resources of the bay. This task has been given to the Department of Fish and Game and the Ocean Conservancy. Clearly, these state entities have an interest in whatever solution is selected.

Alternative Plans

Seeking an alternative plan, the PUC's Office of Ratepayer Advocates entered into a contract with UC Santa Cruz to evaluate other options. After a conceptual plan was developed, Cal-Am, Monterey County Water Resource Agency, and the Marina Coast Water District agreed to help fund studies.

Initial indications show that the UCSC-developed plan would be less costly, would not use "once-through" cooling, would use less energy, and would reduce seawater intrusion into Salinas Valley groundwater. Under this three-part plan, (1) tertiary-treated sewage from Monterey (currently discharged to the ocean) would be used to indirectly recharge groundwater in the Salinas Valley, thereby reducing seawater intrusion; (2) groundwater that is partially contaminated with ocean water would be supplied to a desalination plant that would deliver fresh water to Monterey; and (3) the brine (approximately the salinity of seawater) would be discharged to the Monterey Bay via the conveyance currently used to discharge unneeded tertiary-treated water into the bay.

While this plan is still under study, it potentially could provide a better resolution of the various state and local interests than would the existing Moss Landing project.

Additionally, the Monterey Peninsula Water Management District has voted to reopen its EIR to consider a "slant-well" desalination plan. This plan would have the advantage of reduced cost because fewer miles of pipeline would be required and because the use of wells would avoid most of the entrainment concerns with "once-through" cooling.

Lastly, the staff of the Monterey Regional Pollution Control has suggested two other alternative ways to use tertiary-treated sewage, and those are also being evaluated.

Moving forward

If the State Water Resources Control Board proceeds with hearings on the draft order, Cal-Am and the local community—already well-known statewide as leaders in water conservation—may respond by working hard to resist the order because the schedule calls for larger and larger water reductions. It would be better if they could fully focus on the alternatives that will soon be presented to them. In addition, it would be ideal if the various state agencies collaborated and coordinated their expertise to assist the community in selecting the least costly, most environmentally appropriate alternative.

It is difficult to understand why it has been almost 13 years without action since the original Board order. And yet, the draft order effectively proposes to punish residents and businesses in the Monterey Peninsula area (rather than Cal-Am, due to the way PUC rules are structured with regard to profit and Cal-Am's financial investment in the Monterey area) by cutting back on water diversions and thus water deliveries.

At this time, there should be two top priorities. First, the various studies and EIRs being undertaken by the PUC should get completed. In order to allow the community to fully focus on the solutions that will be presented, it would be helpful if the Board could defer consideration of its draft order.

Second, before the Board issues an order, it would be appropriate for the Board to fully coordinate with the other state boards and departments in order to help the community find the least costly and most environmental beneficial solution—one which will meet local and state interests, including restoration of the Carmel River.

We need an innovative solution that restores flows in the Carmel River and effectively considers the many objectives and needs of the local community and the state.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "John Laird". The signature is written in a cursive, slightly slanted style.

JOHN LAIRD, Assemblymember
27th District